

**IN THE UNITED STATES BANKRUPTCY COURT
FOR THE SOUTHERN DISTRICT OF TEXAS
HOUSTON DIVISION**

In re: § Case No. 20-33644
Udonsi Olugu Kalu, §§
Debtor. §§ Chapter 13

**Response by the United States of America to
Debtor's Objection to IRS Proof of Claim
(Related to Doc. No. 28)**

The United States of America responds to the Debtor's objection to the IRS's proof of claim.

Summary

The IRS's records do not reflect receipt of an amended tax return, and the IRS believes its proof of claim is correct as-filed.

Background

On July 21, 2020, Udonsi Olugu Kalu filed a chapter 13 bankruptcy petition. [Doc. No. 1].

On August 5, 2020, the IRS filed a proof of claim in the amount of \$28,584.58, including a priority unsecured portion in the amount of \$27,706.98. [Claim No. 1-1]. The IRS's proof of claim included a line for the Debtor's 2018 federal income tax liability of (a) \$7,360 in tax due and (b) \$557.25 in pre-petition interest.

On August 27, 2020, the Debtor objected to the IRS's proof of claim arguing that (a) the Debtor submitted an amended tax return from 2018 on or about June 21, 2020, and (b) the amended tax return showed a refund due. [Doc. No. 28].

Response

The United States requests that the Court overrule the Debtor's objection.

First, the IRS's records do not reflect receipt of an amended tax return from the Debtor for 2018. This could be due to pandemic-related disruptions in the IRS's operations.

Second, there is a discrepancy between the Debtor's amended tax return at [Doc. No. 28-1, pp. 8-13] and the IRS's proof of claim, even if the Debtor is amending the return. The IRS's records, as reflected in its proof of claim, reflect that the Debtor owes income tax of \$7,360 for 2018. The Debtor's amended return represents that (a) the 2018 tax liability is being reduced by \$2,281, (b) the Debtor paid \$9,502 in taxes, and (c) the Debtor wants \$2,281 refunded. [Doc. No. 28-1, p. 8].

This does not make sense. If the IRS assessed a tax of \$7,360 against the Debtor, then a reduction in liability of \$2,281 would still result in the Debtor owing \$5,079. The dispute over the Debtor's 2018 tax liability appears to involve more than whether the IRS received an amended tax return, and until the Debtor explains the discrepancy, the United States disputes that the Debtor has overcome the *prima facie* validity of the IRS's proof of claim.

Accordingly, the United States requests that the Court overrule the Debtor's objection and grant the United States such other and further relief as is equitable and just.

Dated: September 13, 2020.

Respectfully submitted,

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Certificate of Service

The undersigned certifies that he served a true and correct copy of the foregoing Response on September 13, 2020, on counsel for the Debtor, the chapter 13 trustee, and the United States trustee through the Court's ECF notification system.

s/ Richard A. Kincheloe
Richard A. Kincheloe
Assistant United States Attorney